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EXAMINER
CLOUD, JOIYA M

ART UNIT	PAPER NUMBER
2144	

NOTIFICATION DATE	DELIVERY MODE
09/17/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
> WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
>   after SIX (6) MONTHS from the mailing date of this communication.
> - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
> - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
>   Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
>   earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>26 June 2008</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>66-82 and 173-183</u> is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>66-82 and 173-183</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>06/27/2001</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail. Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the communication filed on 06/26/2008. Claims 66-104,107-

109, AND 111-172 are PENDING in this application.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine
grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or
improper timewise extension of the "right to exclude" granted by a patent and to prevent possible
harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection
is appropriate where the conflicting claims are not identical, but at least one examined
application claim is not patentably distinct from the reference claim(s) because the examined
application claim is either anticipated by, or would have been obvious over, the reference
claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re
Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225
USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re
Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163
USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may
be used to overcome an actual or provisional rejection based on a nonstatutory double patenting
ground provided the conflicting application or patent either is shown to be commonly owned
with this application, or claims an invention made as a result of activities undertaken within the
scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal
disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR
3.73(b).

Claims 1-16 are provisionally rejected on the ground of nonstatutory obviousness-type

double patenting as being unpatentable over claim 66 of exemplary co-pending **Application No.**

09/894615. The following co-pending Applications are also provisionally rejected for the same

rational **(09/894641, 09/724949, 11/567695, 11/559854, 11/622954, 09/878948, 12/049898, and**

09/879339). Although the conflicting claims are not identical, they are not patentably distinct

from each other because the differences between the two pending applications are minor

wording, which do not change the scope of the invention. Please refer to the exemplary

observations for obvious variations of limitation in claims.

Instant Application 09/894,642	Co-Pending Application 09/894615
1. A method for a user characterization system executing remotely from a thin client wearable computer to provide information about a current state of a user of the thin client wearable computer, the user characterization system modeling the current state with multiple state attributes and including state server modules (SSMs) to supply values for the state attributes, state client modules (SCMs) to process values for the state attributes, and an intermediary module to facilitate exchange of state attribute values, the method comprising:	66. A method in a wearable computer for an executing user characterization system to provide information about a current state of a user of the wearable computer, the user characterization system modeling the current state with multiple state attributes and including state server modules (SSMs) to supply values for the state attributes, state client modules (SCMs) to process values for the state attributes, and an intermediary module to facilitate exchange of state attribute values, each of the multiple state attributes having a distinct local name used by the SSMs, the SCMs and the intermediary module, the method comprising:
under control of each SSM, gathering information about the current state of the user, generating values for at least one of the state attributes based on the gathered information, and sending the generated values to the intermediary module;	under control of each SSM, generating values for at least one of the multiple state attributes; and sending generated values for a state attribute to the intermediary module along with an indication of that state attribute using the local name of that state attribute; under control of each SCM,
under control of each SCM, receiving values for at least one state attribute from the intermediary module and performing processing based on the received values;	requesting from the intermediary module values for at least some of the state attributes that are indicated using the local names of those state attributes; and receiving at least some of the requested values from the intermediary module; and under control of the intermediary module, facilitating exchange of values by, receiving the sent values for the indicated state attributes from the SSMs and storing the received values in a manner associated with those indicated state attributes;
under control of the intermediary module, facilitating exchange of values by, receiving the sent values for the state attributes from the SSMs; automatically modeling values of other state attributes based at least in part on the sent values of the state attributes by abstracting a user condition	

derived from the sent values of the state attributes; sending at least some of the received state attribute values and at least some of the modeled other state attribute values to the SCMs; and interacting with the thin client wearable computer in order to provide information about the user or to receive information about the user, the interacting being based at least in part on the modeled other state attribute values, so that the	receiving from a first other characterization system an indication of a first attribute and at least one value for the indicated first attribute, the first other characterization system executing on another computer to model a current state related to that computer; storing the received first attribute value by determining whether the indication of the first attribute corresponds to one of the multiple state attributes having a local name that differs from that indication, and when the first attribute is determined to correspond to the one state attribute having the differing local name, storing the received first attribute value in a manner associated with the one state attribute having the differing local name; and receiving from the SCMs the requests for values of state attributes indicated using the local names of the state attributes, and sending to the SCMs stored values that are associated with those indicated state attributes, so that the user characterization system can interact with modules and other characterization systems in order to exchange values of state attributes.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 66-82 and are rejected under 35 U.S.C 103(a) as being unpatentable over Carroll

et al. **(US Patent No. 6,285,757)** in view of Toyouchi et al **(US Patent No. 6,006,251).**

As per claims 66 Carroll discloses the invention substantially as claims. Carroll

discloses a method for a user characterization system executing remotely from a thin client

wearable computer (Carroll , fig.1, remotely device 160, col.2, l.30-45, col.6, l.35-37) to

provide information about a current state of a user of a thin client wearable computer, the user

characterization system modeling the current state with multiple state attributes and including

state server modules (SSMs) to supply values for the state attributes (Carroll,col.5, l.39-43, in

which the sensors 170 provides information corresponds to state attribute), state client modules

(SCMs) to process values for the state attributes (Carroll, col.7, l.36-39, in which sensor 170

also process information on surrounding environment), and an intermediary module to facilitate

exchange of state attribute values (Carroll, col.7, l.26-28, the interactive device corresponds to

the intermediary module which can exchange the sensor information between inward and

outward), the method comprising:

    a.   under control of each SSM, gathering information about the current state

            of the user, generating values for at least one of the state attributes based

            on the gathered information, and sending the generated values to the

            intermediary module (Carroll, col. 5, l.42-45, the sensor corresponds SSM

            sends the distance information and lens provides the enhance view).

    b.   under control of each SCM, receiving values for at least one state attribute

            from the intermediary module and performing processing based on the

received values (Carroll, col.7, l.43-45, the interactive device can receive

signal from GPS).

c.   under control of the intermediary module (interactive device), facilitating

exchange of values by, receiving the sent values for the state attributes from the SSMS

(Carroll, col.5, l.43-44, interactive device receives the information from sensor); and

sending at least some of the received state values and at least some of the modeled other

state attribute values to the SCMs (Carroll, col. 5, l.40-42, and conjunction with the lens

(one of SCMs) to provide the enhance viewing); and interacting with the thin client

wearable computer in order to provide information about the user or to receive

information about the user, the interacting being based at least in part on the modeled

other state attribute values, so that the remotely executing user characterization system

can obtain and provide information about the current state of the user of the thin client

wearable computer (Carroll, fig.3, interactive device can remotely communicates with

component 150, 160, 170).

Carrol fails to explicitly teach automatically modeling values of other state attributes

based at least in part on the sent values of the state attributes by abstracting a user condition

derived from the sent values of the state attributes.

However, Toyouchi teaches automatically modeling values of other state attributes based

at least in part on the sent values of the state attributes by abstracting a user condition derived

from the sent values of the state attributes (Figure 4 and col. 11, lines 55-col. 12, lines 1-10,

where a condition table represents the acquired information of state attributes in which

condition information (i.e. terminal location and weather) is derived with values updated by the

condition management unit).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine Carroll's wearable device with the method of Toyouchi for the

purpose of determining "the information to be provided to the information acquiring computer"

based on representative values of the conditions (col. 7, lines 32-38) and furthermore to change

the service to be provided in accordance with the conditions indicated by the values (col. 12,

lines 10-13).

As per claim 67, Carroll-Toyouchi further discloses the method of claim 66 wherein the

thin client wearable computer includes an output device, and wherein the interacting with the

thin client wearable computer includes sending information for presentation to the user on the

output device (Carroll, col.3, l.23-25, the display interface corresponds to the output device).

As per claim 68, Carroll-Toyouchi further discloses the method of claim 67 wherein the

Information to be sent for presentation to the user is generated by the processing of one of the

SCMs, and wherein the sending of the information for presentation to the user on the output

device is performed on behalf of that SCM (Carroll, col.5, l.40-42, and conjunction with the lens

(one of SCMs) to provide the enhance viewing).

As per claim 69, Carroll-Toyouchi further discloses wherein the thin client wearable

computer includes an input device, and wherein the interacting with the thin client wearable

computer includes receiving information provided by the user via the input device (Carroll, col.

6, l.60-62, microphone corresponds to input device).

As per claim 70, Carroll-Toyouchi further discloses wherein the gathering of the information about the current state of the user by one of the SSMs includes obtaining the received information provided by the user via the input device (Carroll, col.5, l.32-34, the voice recognition need input from microphone).

As per claim 71, Carroll-Toyouchi further discloses the method of claim 66 wherein the user characterization system executes on a computer remote from the thin client wearable computer, wherein the thin client wearable computer lacks resources accessible to the remote computer, and wherein the interacting with the thin client wearable computer includes receiving a request to access at least one of the resources on behalf of the thin client wearable computer and accessing those resources in response (Carroll, col.8, l.31-34, the interactive communication corresponds to the accessing resource in response).

As per claim 72, Carroll-Toyouchi further discloses the method of claim 71 wherein the at least one resources include processing capabilities of the remote computer, wherein the accessing of those resources includes using the processing capabilities on behalf of the thin client wearable computer, and including sending an indication of results to the thin client wearable computer (Carroll, col.8, l.31-34 the interactive communication includes the sending an indication of result to the interactive device).

As per claim 73, Carroll-Toyouchi further discloses the method of claim 71 wherein the at least one resources are storage capabilities of the remote computer, and wherein the accessing of those resources includes sending information stored on the storage capabilities to the thin client wearable computer (Carroll, fig.3, component 200).

   As per claim 74, Carroll-Toyouchi further discloses the method of claim 71 wherein the

at least one resources are storage capabilities of the remote computer, and wherein the accessing

of those resources includes storing information received from the thin client wearable computer

on the storage capabilities (Carroll, fig. 3, component 200).

   As per claim 75, Carroll-Toyouchi further discloses the method of claim 71 wherein the

remote computer has a sensor receiving information about the user of the thin client wearable

computer, and wherein the gathering of the information about the current state of the user by at

least one of the SSMs includes obtaining information from the sensor (Carroll, col.7, l.39-41).

   As per claim 76, Carroll-Toyouchi further discloses the method of claim 71 wherein the

remote computer has an output device that is perceivable by the user of the thin client wearable

computer, and wherein the performing of the processing based on the received values by at least

one of the SCMs includes presenting information to the user on the output device. (Carroll, col.5,

l.40-43)

   As per claim 77, Carroll-Toyouchi further discloses the method of claim 66 wherein the

gathering of the information about the current state of the user by at least one of the SSMs

includes obtaining information from at least one sensor that is part of the thin client wearable

computer (Carroll, col. 7, l.35-38).

   As per claim 78, Carroll-Toyouchi further discloses the method of claim 66 wherein the

performing of the processing based on the received values by at least one of the SCMs includes

supplying information to at least one output device that is part of the thin client wearable

computer (Carroll, col. 7, l.30-35).

As per **claim 79**, Carroll-Toyouchi further discloses the method of claim 66 wherein the user characterization system further includes an additional module executing on the thin client wearable computer, and wherein the interacting with the thin client wearable computer includes interacting the additional executing module (Carroll, fig.3, component 180).

As per **claim 80**, Carroll-Toyouchi further discloses the method of claim 66 wherein at least one of the SSMs executes on the thin client wearable computer and communicates with the intermediary module via wireless communication (Carroll, col.3, l.24-25).

As per **claim 81**, Carroll-Toyouchi further discloses the method of claim 66 wherein at least one of the SCMs executes on the thin client wearable computer and communicates with the intermediary module via wireless communication (Carroll, col.3, l.39-45)

As per **claim 82**, Carroll-Toyouchi further discloses the method of claim 66 wherein at least some of the SSMs are available to supply values for additional state attributes of a current state other than for the user, and wherein the intermediary module additionally sends values for the additional state attributes to SCMs (Carroll, col.5, l.10-14, col. 8, l.24-44, in which the interactive device can sends value either from sensor or computer and alerting alarms)

As per **claim 83**, Carroll-Toyouchi further discloses a method in a computer for providing information about a current state related to a thin client, the current state represented with multiple state attributes, the method comprising:

  a. Obtaining information that is related to the current state (Carroll, col.5, l.40-42, lens obtaining the user information of distance from sensor);

      b.   generating a value for each of multiple of the state attributes of the

          represented current state based on the obtained information (Carroll, col.5,

          l.40-42, lens automatic sizing);

      c.   determining a module having an interest in at least one of the generated

          values (Carroll, col.5, l.40-44, interactive device determine the sensor

          conjunction with lens); and

      d.   providing to the determined module the generated values in which the

          determined module can act in accordance with the current state of the thin

          client (Carroll, col. 5, l.40, lens automatic sizing corresponds to the act in

          accordance with the current state).

As per claim 173-, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based on physiological data (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 174, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based on geographic location and speed (Toyouchi: col. 8, lines 61-col. 9, lines 1-35)..

As per claim 175, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based on physical activity to characterize or infer a user's current activity (Toyouchi: col. 8, lines 61-col. 9, lines 1-35)..

As per claim 176, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes to characterize an emotional state (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 177, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on user background information (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 178, Carroll-Toyouchi teaches the method of claim 177, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on user background information pertaining to a demographic classification (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 179, Carroll-Toyouchi teaches the method of claim 177, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on user background information pertaining to a predetermined physiological performance constraint (Toyouchi: col. 8, lines 61-col. 9, lines 1-35)..

As per claim 180, Carroll-Toyouchi teaches the method of claim 179, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on user background information pertaining to visual acuity (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 181, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on ambient environmental information (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 182, Carroll-Toyouchi teaches the method of claim 181, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on air temperature (Toyouchi: Figure 44, col. 8, lines 61-col. 9, lines 1-35)..

As per claim 183, Carroll-Toyouchi teaches the method of claim 181, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on motion sensing (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 184, Carroll-Toyouchi teaches method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based on entities proximal to the user (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922.

Information As per the status of an application may be obtained from the Patent

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(toll-free).

JMC

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144   **September 11, 2008**